

**2013 DRAFTING REQUEST****Assembly Amendment (AA-AB256)**Received: **8/28/2013**Received By: **agary**Wanted: **As time permits**

Same as LRB:

For: **Joan Ballweg (608) 266-8077**By/Representing: **Bethany Anderson**

May Contact:

Drafter: **agary**Subject: **Beverages**

Addl. Drafters:

Extra Copies: **MDK**Submit via email: **YES**Requester's email: **Rep.Ballweg@legis.wisconsin.gov**Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Adding conditions under which no citation is issued

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 9/20/2013			_____			
/P1	agary 10/2/2013	jdye 9/20/2013	phenry 9/20/2013	_____	mbarman 9/20/2013		
/P2	agary 11/4/2013	jdye 10/3/2013	rschluet 10/3/2013	_____	lparisi 10/3/2013		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1		jdye 11/4/2013	jmurphy 11/4/2013	_____ _____	mbarman 11/4/2013	mbarman 11/4/2013	

FE Sent For:

&lt;END&gt;

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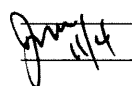
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**Instructions:**

See attached

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1 Als 2 10/20/2013  
net

FE Sent For:

**<END>**

## 2013 DRAFTING REQUEST

### Assembly Amendment (AA-AB256)

Received: 8/28/2013  
Wanted: As time permits  
For: Joan Ballweg (608) 266-8077  
May Contact:  
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Received By: agary  
Same as LRB:  
By/Representing: Bethany Anderson  
Drafter: agary  
Addl. Drafters:  
Extra Copies: MDK

Submit via email: YES  
Requester's email: Rep.Ballweg@legis.wisconsin.gov  
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/?	agary 9/20/2013	P2 10/3 jld	9				
/P1		jdye 9/20/2013	pherry 9/20/2013		mbarman 9/20/2013		

FE Sent For:

<END>

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Received:	<b>8/28/2013</b>	Received By:	<b>agary</b>
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May Contact:		Drafter:	<b>agary</b>
Subject:	<b>Beverages</b>	Addl. Drafters:	
		Extra Copies:	<b>MDK</b>

Submit via email: **YES**  
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/?	agary	PI 9/20/13	9/20/13				

FE Sent For:

<END>

8/28

Bethany - Balling

AB 256 : citations to underage  
persons

· give a conditional citation

policy of whittaker →

· when student completes the  
class, the citation  
goes away· change the bill from  
no citation to a  
conditional citation· conditional citation →  
if the student doesn't  
complete

fall hearing on it

**Gary, Aaron**

---

**From:** Anderson, Bethany  
**Sent:** Tuesday, September 17, 2013 10:15 AM  
**To:** Gary, Aaron  
**Subject:** RE: Your call re AB-256

Yes, thank you.

Sorry I missed this email the first time around.

---

**From:** Gary, Aaron  
**Sent:** Tuesday, September 17, 2013 10:12 AM  
**To:** Anderson, Bethany  
**Subject:** RE: Your call re AB-256

Here is the email. Please let me know how you want to proceed. Thanks. Aaron

---

**From:** Gary, Aaron  
**Sent:** Wednesday, August 28, 2013 4:24 PM  
**To:** Anderson, Bethany  
**Subject:** RE: Your call re AB-256

Hi Bethany,

I spoke with Chief Kiederlen. He explained their process to me and it does not involve issuance of a conditional citation. Instead, no citation is issued at the time of the incident, but a regular citation could be issued later. Below is a more complete description of the process.

If a violation of law occurs, a police officer is not required to issue a citation at the time of the incident. The officer may do an investigation and issue the citation later. This sometimes happens with traffic accidents, when the officer may have to interview witnesses and do an investigation before issuing a citation for, for example, failure to yield or running a red light. Even if there is a clear violation when an officer is at the scene of an incident, an officer may exercise his or her discretion not to issue a citation. For example, if a person is speeding to get to the hospital to see an injured family member, the officer might exercise his or her discretion not to issue a speeding citation even though, legally, hurrying to the hospital is not a defense to speeding.

According to Chief Kiederlen, his department sometimes exercises police discretion not to issue a citation or to delay issuance of the citation. If there is an underage drinking incident, the investigating officer might decline to issue a citation and instead tell the offender that, if he or she completes an alcohol class, writes a paper, and has not further incidents within 90 days, the officer will exercise police discretion not to issue any citation at all. Chief Kiederlen calls it the department's "alcohol diversion program." If the offender satisfies all these conditions, the officer will keep his or her promise and no citation of any kind is ever issued. If the offender fails to meet these conditions within the next 90 days, then a regular citation is issued within that 90 day-period following the incident.

If you like this model, I think we can draft it without referring to a "conditional citation." Like Chief Kiederlen describes his department's process, the amendment could delay issuance of a citation and then prohibit the citation only when the offender has complied with conditions imposed (if any are). Do you want me to do a preliminary draft of an amendment that takes that approach?

Thanks. Aaron



Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

---

**From:** Anderson, Bethany  
**Sent:** Wednesday, August 28, 2013 1:22 PM  
**To:** Gary, Aaron  
**Subject:** RE: Your call re AB-256

Aaron,

I've check with the chief and it is ok for you to contact him.

His name is Matt Kiederlen and he is the Chief of Police at UW-Whitewater.

His direct line is (262) 472-4681 and his email is [kiederlm@uww.edu](mailto:kiederlm@uww.edu).

Thanks,  
Bethany

---

**From:** Gary, Aaron  
**Sent:** Wednesday, August 28, 2013 9:55 AM  
**To:** Anderson, Bethany  
**Subject:** Your call re AB-256

Hi Bethany,

Would it be OK if I spoke with the Whitewater police chief directly? I've never heard of a conditional citation before, so I'd like to get an idea of what exactly they are doing now. I suspect it is either a suspended sentence arrangement or a decision to exercise prosecutorial discretion not to prosecute the violation if the violator complies with certain conditions (ie a conventional citation followed by "we'll drop the charge if you'll do this ...."). If it is OK, could you please provide his or her name and phone number or email address?

Thanks. Aaron

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8/28

Mc w/ Chief Kiedele

- program : alcohol diversion program

- in lieu of issuing a citation,  
they can go through the class

- write paper; do class;  
clear for 90 days

- don't issue a citation

- issue citation but they could  
have gotten to begin

- mandated training course →

- established program
- no time limit

18 mo. for  
limit for  
citation issuance →

90 - 120 days

**Gary, Aaron**

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According to Chief Kiederlen, his department sometimes exercises police discretion not to issue a citation or to delay issuance of the citation. If there is an underage drinking incident, the investigating officer might decline to issue a citation and instead tell the offender that, if her or she completes an alcohol class, writes a paper, and has not further incidents within 90 days, the officer will exercise police discretion not to issue any citation at all. Chief Kiederlen calls it the department's "alcohol diversion program." If the offender satisfies all these conditions, the officer will keep his or her promise and no citation of any kind is ever issued. If the offender fails to meet these conditions within the next 90 days, then a regular citation is issued within that 90 day-period following the incident.

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Thanks,  
Bethany

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Thanks. Aaron

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[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)



in 9/20



LRBa0758/P1

ARG:.....

wanted  
by 9/26

D-Note jld

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY BILL 256**

- 1 At the locations indicated, amend the bill as follows: ✓
- 2 1. Page 4, line 11: after that line insert: ✓
- 3 "3. The underage person has not violated par. (b). ✓
- 4 4. The law enforcement officer having contact with the underage person under
- 5 subd. 1. is employed by a law enforcement agency that has established an alcohol
- 6 diversion program and all of the following apply: ✓
- 7 a. The underage person has satisfied all of the requirements under the alcohol
- 8 diversion program.
- 9 b. For a period of 90 ✓ days after the law enforcement officer's first contact with
- 10 the underage person under subd. 1., the underage person has not been issued a

1 citation for a violation of sub. (4) (a) or (b),<sup>✓</sup> or requested assistance under<sup>✓</sup> subd. 1.,  
2 in connection with a separate incident or occurrence."<sup>✓</sup>

3 (END)

*D-Note*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa0758/P1dn

ARG:.....

date

Jld

ATTN: Bethany Anderson

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed by e-mail, I spoke with Chief Kiederlen, Chief of Police at the UW-Whitewater. According to Chief Kiederlen, his department sometimes exercises police discretion not to issue a citation or to delay issuance of the citation. If there is an underage drinking incident, the investigating officer might decline to issue a citation and instead tell the offender that, if he or she completes an alcohol class, writes a paper, and has no further incidents within 90 days, the officer will exercise police discretion not to issue any citation at all. Chief Kiederlen calls it the department's "alcohol diversion program." If the offender satisfies all these conditions, the officer will keep his or her promise and no citation is issued. If the offender fails to meet these conditions within the next 90 days, then a regular citation is issued within that 90 day period following the incident. Chief Kiederlen, who reviewed AB-256, advised of his belief that the citation clemency in the bill should apply only if the applicable law enforcement agency has an established alcohol diversion program. Because my understanding of the instructions was to try to incorporate the concept of Chief Kiederlen's approach into AB-256, I have followed his suggestion that an established alcohol diversion program be a requirement under the bill. With this addition, it could be argued that the bill would have limited real-world effect for law enforcement, as demonstrated by the fact that no statutory change is needed for Chief Kiederlen's program.

I have also included in this amendment the provision numbered as subd. 3. This change is intended to make bill section 5 more similar to bill section 2, an issue flagged for me by the Legislative Council. Please let me know if you would like the provision removed.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa0758/P1dn  
ARG:jld:ph

September 20, 2013

ATTN: Bethany Anderson

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed by e-mail, I spoke with Chief Kiederlen, Chief of Police at the UW-Whitewater. According to Chief Kiederlen, his department sometimes exercises police discretion not to issue a citation or to delay issuance of the citation. If there is an underage drinking incident, the investigating officer might decline to issue a citation and instead tell the offender that, if he or she completes an alcohol class, writes a paper, and has no further incidents within 90 days, the officer will exercise police discretion not to issue any citation at all. Chief Kiederlen calls it the department's "alcohol diversion program." If the offender satisfies all these conditions, the officer will keep his or her promise and no citation is issued. If the offender fails to meet these conditions within the next 90 days, then a regular citation is issued within that 90-day period following the incident. Chief Kiederlen, who reviewed AB-256, advised of his belief that the citation clemency in the bill should apply only if the applicable law enforcement agency has an established alcohol diversion program. Because my understanding of the instructions was to try to incorporate the concept of Chief Kiederlen's approach into AB-256, I have followed his suggestion that an established alcohol diversion program be a requirement under the bill. With this addition, it could be argued that the bill would have limited real-world effect for law enforcement, as demonstrated by the fact that no statutory change is needed for Chief Kiederlen's program.

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Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us



10/2

Mc w/ Bethany

- exception will apply as ~~the~~ default
- if dept. has a program, then requirements of program must be met
  - if no program, provisions of the bill (no liability) will control



State of Wisconsin  
2013 - 2014 LEGISLATURE

soon



LRBa0758/D1 P2

ARG:jld:ph

in  
10/2

RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT,**

**TO ASSEMBLY BILL 256**

a deferred-citation

1 At the locations indicated, amend the bill as follows:

2 1. Page 4, line 11: after that line insert:

3 "3. The underage person has not violated par. (b)."

4 4. <sup>If</sup> The law enforcement officer having contact with the underage person under

5 subd. 1. is employed by a law enforcement agency that has established an alcohol

6 diversion program and all of the following apply:

7 a. The underage person has satisfied all of the requirements under the alcohol

8 diversion program.

9 b. For a period of 90 days after the law enforcement officer's first contact with  
10 the underage person under subd. 1., the underage person has not been issued a

1 citation for a violation of sub. (4) (a) or (b), or requested assistance under subd. 1.,  
2 in connection with a separate incident or occurrence.”.

3 (END)



State of Wisconsin  
2013 - 2014 LEGISLATURE

TODAY



LRBa0758/1  
ARG:jld:rs

in 11/4

RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**ASSEMBLY AMENDMENT,**

**TO ASSEMBLY BILL 256**

11/4 - Hc w/Bethany - wants 11, jacketed

No changes

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 4, line 11: after that line insert:
- 3 "3. The underage person has not violated par. (b).
- 4 4. If the law enforcement officer having contact with the underage person under
- 5 subd. 1. is employed by a law enforcement agency that has established a
- 6 deferred-citation alcohol diversion program, the underage person has satisfied all
- 7 of the requirements under this program."
- 8 (END)